

107TH CONGRESS
1ST SESSION

H. R. 3141

To provide for a program of emergency unemployment compensation and
emergency health coverage assistance.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2001

Mr. KLECZKA introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a program of emergency unemployment
compensation and emergency health coverage assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “American Worker Assistance Act of 2001”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY UNEMPLOYMENT COMPENSATION

Sec. 101. Federal-State agreements.
 Sec. 102. Emergency unemployment compensation account.
 Sec. 103. Payments to States having agreements for the payment of emergency
 unemployment compensation.
 Sec. 104. Financing provisions.
 Sec. 105. Fraud and overpayments.
 Sec. 106. Definitions.

TITLE II—EMERGENCY HEALTH COVERAGE ASSISTANCE

Sec. 201. Premium assistance for COBRA continuation coverage.
 Sec. 202. Optional temporary medicaid coverage for uninsured eligible employ-
 ees.

1 **TITLE I—EMERGENCY UNEM-** 2 **EMPLOYMENT COMPENSATION**

3 **SECTION 101. FEDERAL-STATE AGREEMENTS.**

4 (a) IN GENERAL.—Any State which desires to do so
 5 may enter into and participate in an agreement under this
 6 Act with the Secretary of Labor (hereinafter in this Act
 7 referred to as the “Secretary”). Any State which is a party
 8 to an agreement under this Act may, upon providing 30
 9 days’ written notice to the Secretary, terminate such
 10 agreement.

11 (b) PROVISIONS OF AGREEMENT.—Any agreement
 12 under subsection (a) shall provide that the State agency
 13 of the State will make payments of emergency unemploy-
 14 ment compensation—

15 (1) to individuals who—

16 (A) have exhausted all rights to regular
 17 compensation under the State law,

18 (B) have no rights to compensation (in-
 19 cluding both regular compensation and ex-

1 tended compensation) with respect to a week
2 under such law or any other State unemploy-
3 ment compensation law or to compensation
4 under any other Federal law (and are not paid
5 or entitled to be paid any additional compensa-
6 tion under any State or Federal law), and

7 (C) are not receiving compensation with
8 respect to such week under the unemployment
9 compensation law of Canada, and

10 (2) for any week of unemployment which begins
11 in the individual's period of eligibility (as defined in
12 section 106(b)).

13 (c) EXHAUSTION OF BENEFITS.—For purposes of
14 subsection (b)(1)(A), an individual shall be deemed to
15 have exhausted such individual's rights to regular com-
16 pensation under a State law when—

17 (1) no payments of regular compensation can
18 be made under such law because such individual has
19 received all regular compensation available to such
20 individual based on employment or wages during
21 such individual's base period, or

22 (2) such individual's rights to such compensa-
23 tion have been terminated by reason of the expira-
24 tion of the benefit year with respect to which such
25 rights existed.

1 (d) WEEKLY BENEFIT AMOUNT.—For purposes of
2 any agreement under this Act—

3 (1) the amount of emergency unemployment
4 compensation which shall be payable to any indi-
5 vidual for any week of total unemployment shall be
6 equal to the amount of the regular compensation
7 (including dependents' allowances) payable to such
8 individual during such individual's benefit year
9 under the State law for a week of total unemploy-
10 ment,

11 (2) the terms and conditions of the State law
12 which apply to claims for extended compensation
13 and to the payment thereof shall apply to claims for
14 emergency unemployment compensation and the
15 payment thereof, except where inconsistent with the
16 provisions of this Act or with the regulations or op-
17 erating instructions of the Secretary promulgated to
18 carry out this Act, and

19 (3) the maximum amount of emergency unem-
20 ployment compensation payable to any individual for
21 whom an account is established under section 102
22 shall not exceed the amount established in such ac-
23 count for such individual.

24 (e) ELECTION BY STATES.—Notwithstanding any
25 other provision of Federal law (and if State law permits),

1 the Governor of a State is authorized to and may elect
2 to trigger off an extended compensation period in order
3 to provide payment of emergency unemployment com-
4 pensation to individuals who have exhausted their rights
5 to regular compensation under State law. The preceding
6 sentence shall not be applicable with respect to any ex-
7 tended compensation period which begins after December
8 31, 2002, nor shall the special rule in section 203(b)(1)(B)
9 of the Federal-State Extended Unemployment Compensa-
10 tion Act of 1970 (or the similar provision in any State
11 law) operate to preclude the beginning of an extended
12 compensation period after December 31, 2002, because of
13 the ending of an earlier extended compensation period
14 under the preceding sentence.

15 **SEC. 102. EMERGENCY UNEMPLOYMENT COMPENSATION**
16 **ACCOUNT.**

17 (a) IN GENERAL.—Any agreement under this Act
18 shall provide that the State will establish, for each eligible
19 individual who files an application for emergency unem-
20 ployment compensation, an emergency unemployment
21 compensation account with respect to such individual's
22 benefit year.

23 (b) AMOUNT IN ACCOUNT.—

1 (1) IN GENERAL.—The amount established in
2 an account under subsection (a) shall be equal to the
3 lesser of—

4 (A) 100 percent of the total amount of
5 regular compensation (including dependents' al-
6 lowances) payable to the individual with respect
7 to the benefit year (as determined under the
8 State law) on the basis of which the individual
9 most recently received regular compensation, or

10 (B) 26 times the individual's average week-
11 ly benefit amount for the benefit year.

12 (2) WEEKLY BENEFIT AMOUNT.—For purposes
13 of this subsection, an individual's weekly benefit
14 amount for any week is the amount of regular com-
15 pensation (including dependents' allowances) under
16 the State law payable to such individual for such
17 week for total unemployment.

18 (c) EFFECTIVE DATE.—No emergency unemploy-
19 ment compensation shall be payable to any individual
20 under this Act for any week—

21 (1) beginning before the first week following the
22 week in which an agreement under this Act is en-
23 tered into, or

24 (2) ending after December 31, 2002.

1 **SEC. 103. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
2 **THE PAYMENT OF EMERGENCY UNEMPLOY-**
3 **MENT COMPENSATION.**

4 (a) GENERAL RULE.—There shall be paid to each
5 State which has entered into an agreement under this Act
6 an amount equal to 100 percent of the emergency unem-
7 ployment compensation paid to individuals by the State
8 pursuant to such agreement.

9 (b) TREATMENT OF REIMBURSABLE COMPENSA-
10 TION.—No payment shall be made to any State under this
11 section in respect of any compensation to the extent the
12 State is entitled to reimbursement in respect of such com-
13 pensation under the provisions of any Federal law other
14 than this Act or chapter 85 of title 5, United States Code.
15 A State shall not be entitled to any reimbursement under
16 such chapter 85 in respect of any compensation to the ex-
17 tent the State is entitled to reimbursement under this Act
18 in respect of such compensation.

19 (c) DETERMINATION OF AMOUNT.—Sums payable to
20 any State by reason of such State having an agreement
21 under this Act shall be payable, either in advance or by
22 way of reimbursement (as may be determined by the Sec-
23 retary), in such amounts as the Secretary estimates the
24 State will be entitled to receive under this Act for each
25 calendar month, reduced or increased, as the case may be,
26 by any amount by which the Secretary finds that the Sec-

1 retary's estimates for any prior calendar month were
2 greater or less than the amounts which should have been
3 paid to the State. Such estimates may be made on the
4 basis of such statistical, sampling, or other method as may
5 be agreed upon by the Secretary and the State agency of
6 the State involved.

7 **SEC. 104. FINANCING PROVISIONS.**

8 (a) IN GENERAL.—Funds in the extended unemploy-
9 ment compensation account (as established by section 905
10 of the Social Security Act) of the Unemployment Trust
11 Fund shall be used for the making of payments to States
12 having agreements entered into under this Act.

13 (b) CERTIFICATION.—The Secretary shall from time
14 to time certify to the Secretary of the Treasury for pay-
15 ment to each State the sums payable to such State under
16 this Act. The Secretary of the Treasury, prior to audit
17 or settlement by the General Accounting Office, shall
18 make payments to the State in accordance with such cer-
19 tification, by transfers from the extended unemployment
20 compensation account (as established by section 905 of the
21 Social Security Act) to the account of such State in the
22 Unemployment Trust Fund.

23 (c) ASSISTANCE TO STATES.—There are hereby au-
24 thorized to be appropriated, without fiscal year limitation,
25 such funds as may be necessary for purposes of assisting

1 States (as provided in title III of the Social Security Act)
2 in meeting the costs of administration of agreements
3 under this Act.

4 (d) AUTHORIZATION OF APPROPRIATIONS FOR CER-
5 TAIN PAYMENTS.—There are authorized to be appro-
6 priated from the general fund of the Treasury, without
7 fiscal year limitation, to the extended unemployment com-
8 pensation account (as established by section 905 of the
9 Social Security Act) such sums as the Secretary estimates
10 to be necessary to make the payments under this section
11 in respect of—

12 (1) compensation payable under chapter 85 of
13 title 5, United States Code, and

14 (2) compensation payable on the basis of serv-
15 ices to which section 3309(a)(1) of the Internal Rev-
16 enue Code of 1986 applies.

17 Amounts appropriated pursuant to the preceding sentence
18 shall not be required to be repaid.

19 **SEC. 105. FRAUD AND OVERPAYMENTS.**

20 (a) IN GENERAL.—If an individual knowingly has
21 made, or caused to be made by another, a false statement
22 or representation of a material fact, or knowingly has
23 failed, or caused another to fail, to disclose a material fact,
24 and as a result of such false statement or representation
25 or of such nondisclosure such individual has received an

1 amount of emergency unemployment compensation under
2 this Act to which he was not entitled, such individual—

3 (1) shall be ineligible for further emergency un-
4 employment compensation under this Act in accord-
5 ance with the provisions of the applicable State un-
6 employment compensation law relating to fraud in
7 connection with a claim for unemployment com-
8 pensation, and

9 (2) shall be subject to prosecution under section
10 1001 of title 18, United States Code.

11 (b) REPAYMENT.—In the case of individuals who
12 have received amounts of emergency unemployment com-
13 pensation under this Act to which they were not entitled,
14 the State shall require such individuals to repay the
15 amounts of such emergency unemployment compensation
16 to the State agency, except that the State agency may
17 waive such repayment if it determines that—

18 (1) the payment of such emergency unemploy-
19 ment compensation was without fault on the part of
20 any such individual, and

21 (2) such repayment would be contrary to equity
22 and good conscience.

23 (c) RECOVERY BY STATE AGENCY.—

24 (1) IN GENERAL.—The State agency may re-
25 cover the amount to be repaid, or any part thereof,

1 by deductions from any emergency unemployment
2 compensation payable to such individual under this
3 Act or from any unemployment compensation pay-
4 able to such individual under any Federal unemploy-
5 ment compensation law administered by the State
6 agency or under any other Federal law administered
7 by the State agency which provides for the payment
8 of any assistance or allowance with respect to any
9 week of unemployment, during the 3-year period
10 after the date such individuals received the payment
11 of the emergency unemployment compensation to
12 which they were not entitled, except that no single
13 deduction may exceed 50 percent of the weekly ben-
14 efit amount from which such deduction is made.

15 (2) OPPORTUNITY FOR HEARING.—No repay-
16 ment shall be required, and no deduction shall be
17 made, until a determination has been made, notice
18 thereof and an opportunity for a fair hearing has
19 been given to the individual, and the determination
20 has become final.

21 (d) REVIEW.—Any determination by a State agency
22 under this section shall be subject to review in the same
23 manner and to the same extent as determinations under
24 the State unemployment compensation law, and only in
25 that manner and to that extent.

1 **SEC. 106. DEFINITIONS.**

2 For purposes of this Act:

3 (a) IN GENERAL.—The terms “compensation”, “reg-
4 ular compensation”, “extended compensation”, “addi-
5 tional compensation”, “benefit year”, “base period”,
6 “State”, “State agency”, “State law”, and “week” have
7 the respective meanings given such terms under section
8 205 of the Federal-State Extended Unemployment Com-
9 pensation Act of 1970.

10 (b) PERIOD OF ELIGIBILITY.—An individual’s period
11 of eligibility consists of any week which begins on or after
12 the first day of the first week referred to in section
13 102(c)(1), and which ends on or before December 31,
14 2002; except that an individual shall not have any period
15 of eligibility unless his benefit year ends on or after Janu-
16 ary 1, 2001.

17 **TITLE II—EMERGENCY HEALTH**
18 **COVERAGE ASSISTANCE**

19 **SEC. 201. PREMIUM ASSISTANCE FOR COBRA CONTINU-**
20 **ATION COVERAGE.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—Not later than 60 days after
23 the date of enactment of this Act, the Secretary of
24 Labor shall establish a program under which pre-
25 mium assistance for COBRA continuation coverage

1 shall be provided for qualified individuals under this
2 section.

3 (2) QUALIFIED INDIVIDUALS.—For purposes of
4 this section, a qualified individual is an individual
5 who—

6 (A) establishes that the individual—

7 (i) on or after January 1, 2001, and
8 before January 1, 2003, became entitled to
9 elect COBRA continuation coverage (other
10 than solely on the basis described in para-
11 graph (3), (4), (5), or (6) of section 603
12 of the Employee Retirement Income Secu-
13 rity Act of 1974); and

14 (ii) has elected such coverage; and

15 (B) enrolls in the premium assistance pro-
16 gram under this section by not later than De-
17 cember 31, 2002.

18 (b) LIMITATION OF PERIOD OF PREMIUM ASSIST-
19 ANCE.—Premium assistance provided under this sub-
20 section shall end with respect to an individual on the ear-
21 lier of—

22 (1) the date the individual is no longer covered
23 under COBRA continuation coverage; or

1 (2) 12 months after the date the individual is
2 first enrolled in the premium assistance program es-
3 tablished under this section.

4 (c) PAYMENT, AND CREDITING OF ASSISTANCE.—

5 (1) AMOUNT OF ASSISTANCE.—Premium assist-
6 ance provided under this section shall be equal to 50
7 percent of the amount of the premium required for
8 the COBRA continuation coverage.

9 (2) PROVISION OF ASSISTANCE.—Premium as-
10 sistance provided under this section shall be pro-
11 vided through the establishment of direct payment
12 arrangements with the administrator of the group
13 health plan (or other entity) that provides or admin-
14 isters the COBRA continuation coverage. It shall be
15 a fiduciary duty of such administrator (or other en-
16 tity) to enter into such arrangements under this sec-
17 tion.

18 (3) PREMIUMS PAYABLE BY QUALIFIED INDIVIDUAL
19 REDUCED BY AMOUNT OF ASSISTANCE.—
20 Premium assistance provided under this section shall
21 be credited by such administrator (or other entity)
22 against the premium otherwise owed by the indi-
23 vidual involved for such coverage.

24 (d) CHANGE IN COBRA NOTICE.—

25 (1) GENERAL NOTICE.—

1 (A) IN GENERAL.—In the case of notices
2 provided under sections 606 of the Employee
3 Retirement Income Security Act of 1974, sec-
4 tion 2206 of the Public Health Service Act, and
5 section 4980B(f)(6) of the Internal Revenue
6 Code of 1986 with respect to individuals who,
7 on or after January 1, 2001, and before Janu-
8 ary 1, 2003, become entitled to elect COBRA
9 continuation coverage, such notices shall include
10 an additional notification to the recipient of the
11 availability of premium assistance for such cov-
12 erage under this section.

13 (B) ALTERNATIVE NOTICE.—In the case of
14 COBRA continuation coverage to which the no-
15 tice provisions described in subparagraph (A)
16 do not apply, the Secretary of Labor shall, in
17 coordination with administrators of the group
18 health plans (or other entities) that provide or
19 administer the COBRA continuation coverage
20 involved, assure provision of such notice.

21 (C) FORM.—The requirement of the addi-
22 tional notification under this paragraph may be
23 met by amendment of existing notice forms or
24 by inclusion of a separate document with the
25 notice otherwise required.

1 (2) SPECIFIC REQUIREMENTS.—Each additional
2 notification under paragraph (1) shall include—

3 (A) the forms necessary for establishing
4 eligibility under subsection (a)(2)(A) and enroll-
5 ment under subsection (a)(2)(B) in connection
6 with the coverage with respect to each covered
7 employee or other qualified beneficiary;

8 (B) the name, address, and telephone num-
9 ber necessary to contact the plan administrator
10 and any other person maintaining relevant in-
11 formation in connection with the premium as-
12 sistance; and

13 (C) the following statement displayed in a
14 prominent manner:

15 “You may be eligible to receive assistance with pay-
16 ment of 50 percent of your COBRA continuation coverage
17 premiums for a duration of not to exceed 12 months.”.

18 (3) NOTICE RELATING TO RETROACTIVE COV-
19 ERAGE.—In the case of such notices previously
20 transmitted before the date of the enactment of this
21 Act in the case of an individual described in para-
22 graph (1) who has elected (or is still eligible to elect)
23 COBRA continuation coverage as of the date of the
24 enactment of this Act, the administrator of the
25 group health plan (or other entity) involved or the

1 Secretary of Labor (in the case described in the
2 paragraph (1)(B)) shall provide (within 60 days
3 after the date of the enactment of this Act) for the
4 additional notification required to be provided under
5 paragraph (1).

6 (4) MODEL NOTICES.—The Secretary of Labor
7 shall prescribe models for the additional notification
8 required under this subsection.

9 (e) OBLIGATION OF FUNDS.—This section con-
10 stitutes budget authority in advance of appropriations
11 Acts and represents the obligation of the Federal Govern-
12 ment to provide for the payment of premium assistance
13 under this section.

14 (f) PROMPT ISSUANCE OF GUIDANCE.—The Sec-
15 retary of Labor shall issue guidance under this section not
16 later than 30 days after the date of the enactment of this
17 Act.

18 (g) DEFINITIONS.—In this title:

19 (1) ADMINISTRATOR.—The term “adminis-
20 trator” has the meaning given such term in section
21 3(16) of the Employee Retirement Income Security
22 Act of 1974.

23 (2) COBRA CONTINUATION COVERAGE.—The
24 term “COBRA continuation coverage” means con-
25 tinuation coverage provided pursuant to title XXII

1 of the Public Health Service Act, section 4980B of
 2 the Internal Revenue Code of 1986 (other than sub-
 3 section (f)(1) of such section insofar as it relates to
 4 pediatric vaccines), part 6 of subtitle B of title I of
 5 the Employee Retirement Income Security Act of
 6 1974 (other than under section 609), section 8905a
 7 of title 5, United States Code, or under a State pro-
 8 gram that provides continuation coverage com-
 9 parable to such continuation coverage.

10 (3) GROUP HEALTH PLAN.—The term “group
 11 health plan” has the meaning given such term in
 12 section 9832(a) of the Internal Revenue Code of
 13 1986.

14 (4) STATE.—The term “State” includes the
 15 District of Columbia, the Commonwealth of Puerto
 16 Rico, the Virgin Islands, Guam, American Samoa,
 17 and the Commonwealth of the Northern Mariana Is-
 18 lands.

19 **SEC. 202. OPTIONAL TEMPORARY MEDICAID COVERAGE**
 20 **FOR UNINSURED ELIGIBLE EMPLOYEES.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
 22 sion of law, a State may elect to provide, under its med-
 23 icaid program under title XIX of the Social Security Act,
 24 medical assistance in the case of an individual who is eligi-
 25 ble for unemployment benefits (including under title I),

1 who is not eligible for COBRA continuation coverage, and
2 who is uninsured. For purposes of this section, an indi-
3 vidual is considered to be uninsured if the individual is
4 not covered under a group health plan, health insurance
5 coverage, or under such program or a program under title
6 XVIII or XXI of such Act.

7 (b) LIMITATION TO 12 MONTHS OF COVERAGE.—As-
8 sistance under this section shall end with respect to an
9 individual on the earlier of—

10 (1) the date the individual is no longer unin-
11 sured; or

12 (2) 12 months after the date the individual is
13 first determined to be eligible for medical assistance
14 under this section.

15 (c) SPECIAL RULES.—In the case of medical assist-
16 ance provided under this section—

17 (1) the Federal medical assistance percentage
18 under section 1905(b) of the Social Security Act
19 shall be 100 percent;

20 (2) a State may elect to disregard any income,
21 asset, or resource limitation imposed under the State
22 medicaid plan or under title XIX of such Act;

23 (3) such medical assistance shall not be pro-
24 vided for periods before the date the individual is de-
25 termined eligible for such assistance;

1 (4) a State may elect to make eligible for such
2 assistance a dependent spouse or children of an indi-
3 vidual eligible for medical assistance under sub-
4 section (a), if such spouse or children are uninsured;
5 and

6 (5) individuals eligible for medical assistance
7 under this section shall be deemed to be described
8 in the list of individuals described in the matter pre-
9 ceding paragraph (1) of section 1905(a) of such Act.

○